

JUDGE BRICCEITI

PREET BHARARA
United States Attorney for the
Southern District of New York
By: AMY A. BARCELO
Assistant United States Attorney
86 Chambers Street, Third Floor
New York, New York 10007
Telephone: (212) 637-6559
Facsimile: (212) 637-2730
Email: amy.barcelo@usdoj.gov

12 CV 00833

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

Plaintiff,

v.

FLEET AVIATION, LLC,

Defendant.

12 Civ. _____

COMPLAINT

ECF CASE

Plaintiff United States of America, by its attorney, Preet Bharara, United States Attorney for the Southern District of New York, alleges for its complaint upon information and belief as follows:

FILED
U.S. DISTRICT COURT
S.D. OF N.Y.
12 AUG 31 PM 2:49

INTRODUCTION

1. This is a civil action brought by plaintiff the United States of America to recover a civil penalties from the Defendant Fleet Aviation, LLC ("Fleet Aviation") pursuant to 49 U.S.C. §46301(a)(1). As set forth below, Fleet Aviation, and on-demand charter flight service, is liable for civil penalties because it used an unqualified pilot on dozens of flights in 2008 and 2009, in violation of Federal Aviation Regulations.

JURISDICTION, VENUE, AND PARTIES

2. This Court has jurisdiction over this matter pursuant to 49 U.S.C. §§ 46107(b) and 46301(d)(4) and 28 U.S.C. § 1345.

3. Venue is proper in the Southern District of New York pursuant to 28 U.S.C. § 1391(b), because Fleet Aviation was located within the Southern District of New York during the time period at issue in this complaint.

4. Fleet Aviation is a limited liability company located at 10 New King Street, Suite 208, White Plains, NY 10604.

FACTS

5. Fleet Aviation is the holder of Air Carrier On-Demand Certificate Number Y7EA399L. 14 C.F.R. §§ 1.1, 119.3.

6. During the period from October 19, 2008 to September 7, 2009, Fleet Aviation used a pilot, Stephen A. Cohen (hereinafter “Mr. Cohen”), on dozens of Part 135 flights in a Piper PA34220T aircraft, identification number N711WC (hereinafter “the flights”).

7. For each of the flights, Mr. Cohen had not, since the beginning of the twelfth (12th) calendar month before that flight, passed a written or oral test, given by the Administrator of the Federal Aviation Administration (the “Administrator”) or an authorized check pilot, on his knowledge of the aircraft powerplant, major components and systems, major appliances, performance and operating limitations, standard and emergency operating procedures, and the contents of the Approved Flight Manual or equivalent, with respect to the subject aircraft.

8. For each of the flights, Mr. Cohen had not, since the beginning of the twelfth (12th) calendar month before that flight, passed a written or oral test, given by the Administrator or an authorized check pilot, on his knowledge of the method of determining compliance with weight and balance limitations for takeoff, landing, and enroute operations, with respect to the subject aircraft.

9. For each of the flights, Mr. Cohen had not, since the beginning of the twelfth (12th) calendar month before that flight, passed a competency check given by the Administrator or an authorized check pilot in the class of aircraft operated, to determine his competence in practical skills and techniques in that aircraft or class of aircraft.

10. By virtue of the allegations set forth in Paragraphs 6 through 9, above, Mr. Cohen was not qualified to serve as pilot on the flights.

CLAIM FOR RELIEF

11. The United States incorporates by reference the allegations set forth in paragraphs 5-10 above.

12. By virtue of the above, Fleet Aviation, LLC violated the following sections of 14 C.F.R.:

a. Section 135.293(a)(2), which states that no certificate holder may use a pilot unless, since the beginning of the twelfth (12th) calendar month before that service, that pilot has passed a written or oral test, given by the Administrator or an authorized check pilot, on that pilot's knowledge in the following area - for each type of aircraft to be flown by the pilot, the aircraft powerplant, major components and systems, major appliances, performance and operating limitations, standard and emergency operating procedures, and the contents of the approved Aircraft Flight Manual or equivalent, as applicable.

b. Section 135.293(a)(3), which states that no certificate holder may use a pilot, unless, since the beginning of the twelfth (12th) calendar month before that service, that pilot has passed a written or oral test, given by the Administrator or an authorized check pilot, on that pilot's knowledge in the following area - for each type of aircraft to be flown by the pilot, the

method of determining compliance with weight and balance limitations for takeoff, landing and en route operations.

c. Section 135.293(b), which states that no certificate holder may use a pilot, in any aircraft under Part 135, unless since the beginning of the twelfth (12th) calendar month before that service, that pilot has passed a competency check given by the Administrator or an authorized check pilot in that class of aircraft.

d. Section 135.95(b), which states that no certificate holder may use the services of any person as an airman unless the person performing those services is qualified, under this chapter, for the operation for which the person is to be used.


13. By virtue of 49 U.S.C. § 46301(a)(1), Defendant is subject to a civil penalty for each of the foregoing violations of the Federal Aviation Regulations.

WHEREFORE, Plaintiff demands judgment against Fleet Aviation for the maximum available civil penalties together with its costs therein, and such other relief as the Court deems appropriate.

Dated: New York, New York
August 31, 2012

PREET BHARARA
United States Attorney for the
Southern District of New York
Attorney for the United States of America

By:



AMY A. BARCELO
Assistant United States Attorney
86 Chambers Street, Third Floor
New York, New York 10007
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